

Housing Enforcement Policy

1. Background

1.1. The Council aims to ensure that all citizens of West Lindsey have a home that is safe, secure, dry and not overcrowded. We recognise that a thriving housing market is essential for us to achieve this aim, and will support the majority of landlords and property owners who co-operate with us. This policy, alongside the Corporate Enforcement Policy, outlines how the council will use appropriate enforcement powers to ensure that all owners comply with their statutory obligations.

2. Definition for the purpose of the Policy

Term	Meaning
Proportionality	Relating enforcement action to the risks posed by the condition or situation and the likely benefits achieved by compliance.
Consistency	Taking a similar approach in similar circumstances to achieve similar ends. Enforcement action will be similar regardless of the tenure and location.
Targeting	While ensuring we respond to any unsafe housing and nuisance, we will pro-actively use enforcement action in high risk situations of occupation, and areas with the highest level of unsafe, empty dwellings, disrepair and poverty.
Transparency	Helping all members of the community, who we come into contact with, to understand their rights and responsibilities.
Hazard, category 1	Defined in Section 2 of the Housing Act 2004. A deficiency which has been calculated under the Housing Health and Safety Rating System to be highly likely to cause serious harm.
Hazard, category 2	Defined in Section 2 of the Housing Act 2004. A deficiency which has been calculated under the Housing Health and Safety Rating System to be likely to cause harm.
Statutory Nuisance	Defined in Section 79 of the Environmental Protection Act 1990. A certain type of defect which is prejudicial to health and/or a nuisance.

3. Policy Statement

3.1. The Council will use all available and appropriate legislation to ensure that the housing stock in West Lindsey is safe, maintained in good repair and well managed. The Council will also use appropriate legislative powers to improve housing standards, reduce the impact of empty homes, and to ensure dwellings do not fall under the definition of a statutory nuisance. Where we take enforcement action to gain compliance with the law, it will be proportionate, consistent, targeted, transparent and in line with Statutory Obligations.

4. Statutory Obligations

4.1. The Council has a statutory duty to take action to remove Category 1 Hazards as per the Housing Health and Safety Rating System (HHSRS) and housing conditions that fall under the definition of a statutory nuisance. The Council must also run a licensing scheme for certain types of high risk houses in multiple occupation (HMO). Various acts of Parliament also give the Council discretionary powers to resolve unsatisfactory conditions in houses, HMOs and flats, and to reduce the impact of long term empty properties. This policy summarises how the Council will satisfy its legal duties and responsibilities.

4.2. The Council is fully committed to being fair, independent and objective. In particular, all officers will serve the community equally and fairly, in accordance with our generic Equality Policy.

4.3. The Council's overall approach to enforcement is set out in the Corporate Enforcement Policy.

5. Approach to Enforcement

5.1. In deciding the course of enforcement it will take, the Council will have regard to circumstances including, but not restricted to, those below:

- The statutory obligations of the Council
- The seriousness of the offence
- The general record of the offender
- The consequences of non-compliance
- The frequency of the offence
- Public interest and concern
- The likely effectiveness of the various enforcement options
- Whether the landlord is a member of a private sector accreditation scheme
- Whether grant funding has been paid to provide or repair the item or element concerned
- The views of tenants and occupiers
- The views of other organisations including the police, fire and rescue service, social services etc.
- Whether the property needs to be licensed under a mandatory, additional or selective licensing scheme.
- Whether empty homes have been identified as a local priority.

- Whether the tenant has made a written request to the landlord for works to be completed and the landlord has failed to do so in a reasonable timescale
- The effect on a tenant's security of tenure of serving a hazard awareness notice or improvement notice

5.2. Enforcement decisions must be consistent, balanced, and fair and relate to common standards to protect public health and safety, economic wellbeing or the environment. Each case is unique and must be considered on its own merits.

5.3. Where action must be taken to deal with a Category 1 Hazard, or conditions that are prejudicial to health as defined by Section 79(1) of the Environmental Protection Act 1990, the Council will not be limited to informal enforcement methods.

5.4. Officers taking any action will distinguish between legal requirements and matters which are recommended as good practice.

6. Enforcement Options

The options available to the Council are as follows;

6.1. Informal Action

6.1.1. This may include the offering of advice; verbal warning and requests for action; written correspondence or the removal of the landlord from an accreditation scheme.

The circumstances in which informal action may be appropriate include:

- Where informal action has resulted in compliance in the past
- Where the owner is likely to comply
- Where non-compliance will not result in a significant risk to occupiers or the public, or the violation is of a minor technical nature
- Where we consider that informal action will be more effective than formal action

6.1.2. Any informal written documents asking owners to comply with legal requirements will:

- Contain all the information needed to understand what work is required and why the work is necessary;
- Show the law which has been broken and measures that will satisfy the legal requirements, and explain that the owner may choose other ways to achieve the same effect;
- Clearly show any recommendations of good practice, to show that they are not a legal requirement

6.1.3. If informal methods of enforcement are unsuccessful, formal action will be taken

6.2. Formal Enforcement

6.2.1. Formal action may include:

Action under the provisions of Part 1 of the Housing Act 2004 to:

- Serve an improvement notice under section 11
- Serve a suspended improvement notice under section 14
- Make a prohibition order under section 20
- Make a suspended prohibition order under section 23
- Serve a hazard awareness notice in accordance with section 28
- Take emergency remedial action under section 40 or
- Make an emergency prohibition order under section 43;

6.2.2. Other formal action available may be in the form of;

- The refusal to grant or the revocation of a licence under Parts 2 & 3 of the Housing Act 2004. All matters relating to selective licensing under Part 3 of the Housing Act 2004 and the factors affecting decisions to grant a licence or otherwise will be laid out in the designation of any scheme that is made.
- The making of management orders under Part 4 of the Housing Act 2004
- The making of orders under the provisions of the Housing Act 1985, as amended
- The service of an abatement notice under the Environmental Protection Act 1990
- The service of Statutory Notices under the provisions of other legislation, including but not limited to the Prevention of Damage by Pests Act 1949 and the Local Government (Miscellaneous Provisions) Act 1982
- The making of a Compulsory Purchase Order under the Housing Act 1985 or other legislation
- Works in default of completion by an owner, agent, person responsible, manager or occupier
- Simple caution
- Prosecution
- Issuing of civil penalty

6.2.3. The Council can also serve Statutory Notices or Orders where:

- Conditions are present which are a Category 1 Hazard
- Conditions are present which are a Category 2 Hazard of Band D & E
- Conditions are prejudicial to health or a nuisance
- Officers are not confident that the recipient will respond
- Where breach of a statutory requirement is evident
- The owner has previously not complied with informal actions

- Standards are poor and managers are not aware of statutory requirements
- A property, whether occupied or not, is having a detrimental impact on the neighbourhood
- Conditions are so severe that they justify immediate action.
- Where a breach of a site licence or condition is found
- Demolition, Compulsory Purchase and Prohibition Orders will only be made by decision of the Council.

6.3. Level of Enforcement

6.3.1. The Council assesses each hazard based on the risk to a potential occupant in the most vulnerable group for that hazard under the Housing Health and Safety Rating System. However, in deciding what action to take about identified hazards, the council will have regard to the following:

- The current occupiers
- Regular visitors
- How often the tenants or occupants change
- The risk of excluding vulnerable groups of people from the private rented sector or owner occupation
- The size, type and location of the property

6.3.2. Where a suspended order or notice is served, the situation will be reviewed on a regular basis depending on the risk the hazard presents. In all cases the suspended order or notice will be reviewed at least once a year.

6.3.3. The Council will consider all requests to vary or revoke an improvement notice or prohibition order having regard to matters including, but not restricted to, the following:

- The views of the person receiving the notice (the recipient)
- The views of tenants
- The views of Fire and Rescue Service, where appropriate
- The risk that the hazard presents
- How confident officers are that the recipient will respond
- The amount, quality and speed of completion of any works taken to deal with deficiencies and hazards specified in the notice or order
- Whether the recipient has previously complied with informal and formal actions
- The cost of any works compared to the benefit that they give
- Any more unexpected works which become clear during the course of remedial works

7. Additional Information on Enforcement Action

7.1. Works in Default

7.1.1. Where there is a failure to comply with a Statutory Notice the Council may, if it is in the interest of the tenants or others, carry out any outstanding works in default. Where there is a statutory duty to undertake works in default, they will be carried out.

7.1.2. The Council will recharge the cost of carrying out such works with the Council's costs and officer time included, and if necessary recover these as a charge against the property or through the Council's recovery services. This could include enforced sale of the property to recover a Local Land Charge under the Law of Property Act 1925 where this is considered to be in the public interest.

7.2. Management Orders

7.2.1. The Council may make a Management Order under the provisions of Part 4 of the Housing Act 2004, relating to licensable properties as defined by Parts 2 & 3 or long term empty dwellings. It may apply to the First Tier Tribunal (Property Chamber) for an interim management order in other prescribed circumstances.

7.2.2. When Management Orders are used, the Council effectively takes over management of the HMO, house or flat. They will normally only be used as a last resort and if no other enforcement power is effective.

7.2.3. The Officer must discuss considering a Management Order with the Chief Operating Officer, or equivalent post, or their duly appointed representative. Only the Chief Operating Officer, or equivalent post in line with the Constitution can make the decision to make a Management Order.

7.3. The Recovery of Costs and Expenses

7.3.1. The Council reserves the right, in appropriate circumstances, to charge and recover its reasonable costs in taking the most appropriate course of action, as allowed under Sections 42, 49 and 50 of the Housing Act 2004. Costs and expenses will also be recovered where permitted in other legislation.

7.3.2. The Council will normally charge where:

- A formal notice is required to remove a serious threat to health and safety, unless the threat arose because of circumstances outside the control of the person receiving the notice, order or action, and/or
- There is evidence that the person receiving the notice has failed to comply before with the requirements of the Housing Acts or other housing related legislation, and/or

- The person has not taken adequate action in response to the Council's informal requests to take action or do works
- A property is required to be licensed under the Housing Act 2004.

7.3.3. See appendix A for a list of chargeable items. The council will if necessary recover these as a charge against the property or through the Council's recovery services.

7.4. The Licensing of Houses in Multiple Occupation

7.4.1. A House in Multiple Occupation (HMO), is defined in the Housing Act 2004 as a building, or part of a building, that:

- is occupied by more than one household who share or lack a bathroom, toilet or kitchen;
- is occupied by more than one household and which is a converted building - but not entirely self-contained flats (whether or not some amenities are shared or lacking) , or
- is converted self-contained flats, but does not meet as a minimum standard the requirements of the 1991 Building Regulation and at least one third of the flats are occupied under short tenancies.

7.4.2. Part 2 of The Housing Act 2004 requires **the following types of HMO to be licensed:**

- three or more storeys high, and
- occupied by five or more people in more than one household, who
- share amenities such as bathrooms, toilets and cooking facilities, and
- rent or other consideration is payable

7.4.3. An application for a HMO licence under Part 2 of the Housing Act 2004 must be made in writing on a form supplied by West Lindsey District Council, or online on the council's website, and must be accompanied by specified documents. The council may serve a Temporary Exemption Notice where a person having control of, or managing, a licensable HMO notifies the council of their intention to take steps to make the property no longer a licensable HMO.

7.5. Standards for Licenced HMOs

7.5.1. Prior to licensing a house in multiple occupation, the local housing authority must be satisfied that:

- The house is reasonably suitable for occupation by the number of persons and households specified in the application or the licence;

- The licence holder is a fit and proper person and is the most appropriate person to hold the licence, which will usually be the person having control;
- The manager of the house is the person having control of the house or their agent or employee, and is a fit and proper person;
- The management arrangements for the house are satisfactory.

7.5.2. When deciding whether to grant or refuse a licence, the council will have regard to:

- The requirements of the Housing Act 2004 Part 2 and any Statutory Instruments made under it, including:
- The prescribed standards for the provision of bathrooms, WCs, kitchens and laundry amenities.
- Any contravention of the law by the applicant, proposed licence holder or manager
- Whether any persons involved in the management of the HMO are competent, fit and proper, and whether the management structures and financial arrangements are adequate

7.5.3. The council may impose licence conditions:

- Where they are mandatory under Schedule 4 of the Housing Act 2004
- To control the use or occupation of the HMO or certain parts of it
- To secure the provision and maintenance of amenities to ensure that the HMO is reasonably suitable for the numbers of households and persons in the licence
- To ensure satisfactory management of the HMO and management of antisocial behaviour.

7.5.4. A HMO licence will usually be granted for a period of five years, however a shorter duration may be granted, having regard to the matters above and any concerns that a Category 1 or Category 2 hazard may be present under the Housing Health and Safety Rating System.

7.5.5. An inspection and assessment of the HMO will be made under the Housing Health and Safety Rating System during the licence term, and the council will use its enforcement powers under Part 1 of the Housing Act 2004 and Section 5 of this policy to deal with any deficiencies or hazards found.

7.5.6. An HMO licence may be varied or revoked:

- with the agreement of the licence holder,
- where there has been a breach of the licence conditions
- where the licence holder or manager is no longer considered to be a fit and proper person

- where the building ceases to be an HMO, or
- where the council would not then issue a licence for the HMO if an application were made at that time, due to structural reasons.

7.5.7. In 2018, revised legislation and guidance will be introduced extending the definition of HMOs. This guidance will be referred to and considered as part of any enforcement decisions made.

7.6. Civil Penalties

7.6.1. The Housing and Planning Act 2016 makes provision for the Council to seek to impose a civil penalty as an alternative to prosecution. The offences within the Act where a civil penalty can be imposed are:

- Failing to comply with an improvement notice under section 30
- Offences relating to the licensing of a house in multiple occupation under section 72
- Offences relating to licensing of a house under Part 3 (selective licensing) under section 95
- Offences relating to the contravention of overcrowding notices (section 139)
- Failure to comply with the Management of Houses in Multiple Occupation (England) Regulations 2006 in respect of HMOs (section 234)

7.6.2. The same criminal standard of proof is required for a civil penalty as for prosecution. This means that before taking formal action, the Council will be satisfied that if the case were to be prosecuted, there would be a realistic prospect of conviction, having regard to the Crown Prosecution's Service Code for Crown Prosecutors.

7.6.3. The West Lindsey District Council Civil Penalties Policy will be used to inform the decisions that the Council will make in regards to determining whether to issue a civil penalty as an alternative to prosecution, and what level of penalty would be appropriate.

7.6.4. A civil penalty will not be applied if a person has already been convicted of that offence or where criminal proceedings have already been instigated. Income received from a civil penalty will be used to maintain the Council's statutory functions in relation to the private rented housing sector.

7.7. Rent Repayment Orders

7.7.1. The Housing and Planning Act 2016 confers power on the First-Tier Tribunal to make a rent repayment order where a landlord has committed one of the following offences:

- Have been prosecuted for operating an unlicensed HMO;
- Have failed to comply with an improvement notice;
- Has failed to comply with a prohibition order;
- Is in breach of a banning order;

- Has used violence to secure entry to a property; or
- Illegal eviction or harassment of the occupiers

7.7.2. A rent repayment order will require the landlord to repay an amount of rent paid by the tenant or pay the Council an amount in respect of a relevant award of Universal Credit paid.

7.7.3. If a person is convicted of an offence as a consequence of action brought by the Council, application for a rent repayment order will be considered. The Council may also help a tenant to apply for a rent repayment order where legislation permits.

7.7.4. The Councils approach to rent repayment orders will be on a case by case basis and will be in line with the specific guidance produced in relation to this.

7.8. The Mobile Homes Act 2013

7.8.1. The Caravan Sites and Control of Development Act 1960, as amended by the Mobile Homes Act 2013, authorises local authorities to serve enforcement notices and to carry out works in default to remedy breaches of site licence conditions.

7.8.2. Where appropriate, the council will also seek to recover expenses incurred in carrying out enforcement action:

- In taking action following conviction of the site owner for failure to carry out actions required by a compliance notice; or
- In taking emergency remedial action where there is an imminent risk of serious harm to any person on the site as a result of the site owner's failure to comply with licence conditions

7.8.3. Where a compliance notice is served and the owner does not comply, the Council can choose to prosecute the owner. If the prosecution is successful the council can then choose to complete works in default. The charges relating to the recovery of these expenses are detailed in appendix A.

7.9. Protection from Eviction Act 1977

7.9.1. Where the Council has reason to believe that an illegal eviction is or has taken place we will act accordingly and take any necessary enforcement action. Where an accusation of harassment is made, under the same act, the Council will seek to investigate this to determine whether an offence has been committed. If so, the appropriate enforcement action will be taken.

8. Other Obligations

8.1. Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014.

8.1.1. There is a legal requirement for all lettings agents and property managers in England to have joined a Government-approved redress scheme by 1 October 2014. This is as a result of the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014. Where the Council is satisfied, on the balance of probabilities, that a person is involved in letting and management as a business and is not registered with a scheme, the Council will issue a fine.

8.1.2. The proposed fine in regards to this order is detailed in Appendix C.

8.2. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

8.2.1. Private sector landlords are required to ensure that at least one smoke alarm is installed on every storey of their rented property and that a carbon monoxide alarm is installed in any room containing a solid fuel burning appliance.

8.2.2. The Council will accept the following evidence of a lack of relevant alarms as reasonable grounds of a breach:

- Inspection by a Council Officer
- Confirmation from a relevant professional
- Provision of photographic evidence

8.2.3. The Council will issue a remedial notice in all cases of non-compliance and the landlord must comply with the notice within 28 days. If they do not, the Council will carry out the remedial action (where the occupier consents) to ensure the requirements in the regulations are met.

8.2.4. Where the landlord has no previous history of non-compliance, officers will consider the use of informal negotiation with the landlord to ensure that their obligations are met.

8.2.5. The Council will issue a civil penalty of up to £5,000 where a remedial notice is served and has issued a statement of principles for its Penalty Charge Notice, which is shown in appendix B.

8.3. Energy efficiency

8.3.1. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 establish a minimum standard for domestic privately rented property, subject to certain requirements and exemptions:

- From the 1st April 2018, landlords of relevant domestic private rented properties may not grant a tenancy to new or existing

tenants if their property has an Energy Performance Certificate (EPC) rating of band F or G.

- From 1st April 2020, landlords must not continue letting a relevant domestic property which is already let if that property has an EPC rating of F or G (as shown on a valid EPC for the property).

8.3.2. Where a landlord wishes to continue letting property which is sub-standard, they will need to ensure that energy efficiency improvements are made which raise the EPC rating to a minimum of E. Under prescribed circumstances within the Regulations, the landlord may claim an exemption from prohibition on letting a sub-standard property. Where a valid exemption applies the landlord must register the exemption on the national Private Rented Sector Exemptions Register.

8.3.3. The minimum standard will apply to any domestic privately rented property which is legally required to have an EPC and which is let on certain tenancy types. Landlords of property for which an EPC is not a legal requirement are not bound by the prohibition on letting sub-standard property.

8.3.4. The Council will check that properties in the district falling within the scope of the Regulations meet minimum levels of energy efficiency. Where a property has been let in breach of the Regulations the Council will seek to issue a compliance notice requesting information.

8.3.5. The Council can then serve a penalty notice where satisfied that the landlord is, or has in the past 18 months, been in breach of the requirement to comply with a compliance notice or has provided false or misleading information on the exemptions register.

8.3.6. The Council will have regard to guidance in the application of this legislation, the penalty amount and the publication of the penalty.

9. Arrangements to Implement the Policy

9.1. Officers implementing this policy will have regard to current national guidelines and local circumstances. Enforcement will only be undertaken by authorised officers. Only competent and suitably qualified and experienced officers will be so authorised, and their authority will reflect their competence, qualities and experience.

10. Standards

10.1.1. West Lindsey District Council has customer service standards. In matters relating to housing enforcement, officers will:

- Respond to all urgent requests for service within 2 working days

- Acknowledge all non-urgent requests for service within 2 working days
- Respond to all non-urgent requests for service within 10 working days
- Give tenants and occupiers clear advice about the extent of any action which the Council is able to take, and provide copies of any notices sent to the landlords as specified in the appropriate legislation
- Advise landlords and property owners of their legal responsibilities and, if the Council is taking enforcement action, advise exactly what is expected of them and any right of appeal

11. Feedback on Our Service

11.1. The Council encourages and welcomes feedback on its services. If you wish to provide feedback you can do so by visiting: www.west-lindsey.gov.uk/feedback

12. Links with Other Policies

12.1. This policy has been considered alongside the following;

- The Housing Assistance Policy;
- The Corporate Enforcement Policy
- The West Lindsey Housing Strategy

Appendix A – Fees and Charges

The Council will calculate a charge to the recipient of a notice as a consequence of taking Enforcement Action, or the applicant of a HMO licence, using the table below. These charges have been calculated taking account of officer time, mileage, photocopying, printing and postage or service costs. The increasing cost of a notice where there are multiple hazards, or determining a licence of a larger HMO, reflects the extra work and complexity of dealing with these cases.

All fees are exclusive of VAT and interest may be charged where applicable.

Item	Basic Fee	Increments	Maximum
Mandatory HMO licence application	£450 for up to five units / bedrooms	£10 per additional unit	n/a
Mandatory HMO licence renewal	£450 for up to five units / bedrooms	£10 per additional unit	n/a
Improvement Notice	£300 for one hazard	£50 per additional hazard	n/a
Emergency Remedial Action Notice (plus cost of works – see below)	£300 for one hazard	£50 per additional hazard	n/a
Prohibition Order	£150 for one hazard	£50 per additional hazard	n/a
Emergency Prohibition Order	£150 for one hazard	£50 per additional hazard	n/a
Demolition Order	£150 for one hazard	£50 per additional hazard	n/a
Immigration Procedure Inspection	£100 per inspection		n/a
Civil Penalty (Housing and Planning Act 2016)	Up to £30,000	See separate policy	£30,000
Mobile Homes Act 2013 – Compliance Notice	Hourly rate of relevant officers with on costs plus work in default costs of works	n/a	n/a
Mobile Homes Act 2014 – Emergency Remedial Action Notice	Hourly rate of relevant officers with on costs plus work in default cost of works	n/a	n/a
Penalty Charge Notice (Smoke and Carbon Monoxide Alarm (England) Regulations 2015)	Up to £5,000. Issued as fine following non-compliance with Remedial Notice and subsequent remedial works		
Notice of Intent (Redress Schemes for Lettings Agency Work and Property	Up to £5,000. See appendix C	n/a	n/a

Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014)			
Works in default of any legislation or emergency remedial action	Cost of work plus hourly rate of officer with on costs	n/a	n/a
Selective Licensing Fee (Gainsborough South West Ward)	WLDC - £375 Co Reg Fee - £120		

Appendix B

Smoke and Carbon Monoxide Alarm Statement of Principles,

This statement of principles is in relation to the “*The Smoke and Carbon Monoxide Alarm (England) Regulations 2015*”, which can be found here

<http://www.legislation.gov.uk/id/uk/si/2015/1693>

The Penalty Charge Notice (PCN) recognises the failure on the landlord’s part to comply with legislation. In determining the PCN amount the following has been taken into consideration:

- The administrative and professional costs incurred by the local authority in regards to the remedial works, the serving of formal notices, any informal steps taken and in determining reasonable grounds.
- The costs incurred by the local authority in completing the relevant remedial works required
- The failure on the landlords behalf to complete the required works within the period given.
- Previous unspent conviction or WID specifically in relation to the owners role as a landlord
- Previous remedial action under Smoke Alarm and CO legislation or by the Fire and Rescue Service
- The type or condition of property in which the offence has been committed
- The risk of harm relating to the specific case

Payment of the Penalty Charge

- A landlord issued with a PCN is required to pay it within a specified period. This period will be confirmed on the PCN and will take into consideration the level of fine that has been applied. This period will usually be 28 days. Should the payment of the PCN for a first offence under this legislation be made within 14 days of its issue, the fine will be reduced by £200.
- If a landlord does not agree with the PCN issued they must apply to the local authority to review this, in writing, within 14 days of issue. The local authority will then confirm whether to confirm, vary or withdraw the notice and will serve a notice of decision on the landlord.
- If the local authority confirms or varies a PCN, it will inform the landlord that they can appeal to the First-tier tribunal.

Appendix C

Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014

To ensure the effectiveness of the requirement for lettings and property management agents to belong to a redress scheme, there must be a process for ensuring compliance and a fair and effective penalty where the requirement is not met.

The enforcement authority can impose a fine of up to £5,000 where it is satisfied, on the balance of probability, that someone is engaged in letting or management work without being a member of a redress scheme.

The three Government-approved redress schemes are:

- Ombudsman Services Property (www.ombudsman.org/property.html)
- Property Redress Scheme (www.theprs.co.uk)
- The Property Ombudsman (www.tpos.co.uk)

The agreed level of fine will be based on the following principles:

- Warning letter issued and complied within 14 days, prior to any Notice of Intent being served – No financial penalty
- Warning letter not complied with, single non-compliance – Notice of Intent served to issue £1000 fine
- Warning letter not complied with, more than one non-compliance – Notice of intent served to issue £2500 fine
- Warning letter not complied with, multiple and persistent non-compliance and/or complaints received about agents conduct – Notice of Intent served to issue £5000 fine.

Each fine will be calculated on a case by case basis and regards will be given to:

- The previous conduct of the agent
- The number of persons affected by the breach
- The risk of harm from poor management of the properties

Appendix D - References

Legislation

- Housing Act 1985
- Housing Act 2004
- Environmental Protection Act 1990
- Landlord and Tenant Act 1972
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government (Miscellaneous Provisions) Act 1982
- Housing Act 1996
- Housing Grants, Construction and Regeneration Act 1996
- Local Government and Housing Act 1989
- Building Act 1984
- Defective Premises Act 1976
- Public Health Act 1936
- Public Health Act 1961
- Protection from Eviction Act 1977
- Prevention of Damage by Pests Act 1949
- Law of Property Act 1925
- Town and Country Planning Act 1990
- Acquisition of Land Act 1981
- The Caravan Sites and Control of Development Act 1960, as amended by the Mobile Homes Act 2013
- The Energy Act 2013
- The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

Regulations and Orders

- The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) 2006
- The Management of HMO (England) Regulations 2006
- The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007
- The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006, amended 2012
- The Housing (Interim Management Orders) (Prescribed Circumstances) (England) Order 2006
- Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004, SI No. 2595
- The Construction (Design and Management) Regulations 2007
- The Housing Health and Safety Rating System (England) Regulations 2005
- Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014.
- The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Circulars and Guidance

- Housing Health and Safety Rating System Enforcement Guidance: Housing Act 2004 Part 1 - housing conditions
- Housing Health and Safety Rating System Operating Guidance: Housing Act 2004 - guidance about inspections and assessment of hazards given under section 9, DCLG 2006
- Examples to Support the Housing Health and Safety Rating System V2, ODPM March 2004
- Lacors Housing - Fire Safety, Guidance on fire safety provisions for certain types of existing housing, July 2008
- Compulsory Purchase and the Criel Down Rules, ODPM Circular 6/2004
- Civil Penalties Guidance : <https://www.gov.uk/government/publications/civil-penalties-under-the-housing-and-planning-act-2016>
- <https://www.gov.uk/government/publications/the-private-rented-property-minimum-standard-landlord-guidance-documents>
- Rent Repayment Orders under the Housing and Planning Act 2016
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/606654/Rent_Repayment_Orders_guidance.pdf